

## PATENT COOPERATION TREATY

## PCT

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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2144-104WO	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/CA99/00490	International filing date (day/month/year) 27/05/1999	Priority date (day/month/year) 27/05/1998
International Patent Classification (IPC) or national classification and IPC B62M19/00		
Applicant APAX VEHICLE DEVELOPMENTS INC. et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 5 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 21 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☐ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand  22/12/1999	Date of completion of this report  25.07.2000
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer  Wochinz, R  Telephone No. +49 89 2399 2129 

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/CA99/00490

**I. Basis of the report**

1. This report has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

**Description, pages:**

1-20 as originally filed

**Claims, No.:**

1-33 as received on 22/12/1999 with letter of 22/12/1999

**Drawings, sheets:**

1/8-8/8 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application.  
☒ claims Nos. 1-33.

because:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/CA99/00490

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-33 are so unclear that no meaningful opinion could be formed (*specify*):

**see separate sheet**

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 1, 7, 21, 30, 33.

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/CA99/00490

**SECTION I:**

1. Reference is made to the following documents:

D1: DE-A-4335494

D2: WO-A-91/17913

**SECTION III:**

1. Due to the clarity reasons mentioned in Section VIII, no examination of the claims with respect to Articles 33(1)-(4) PCT could be carried out.

**SECTION VII:**

1. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.
2. The independent claims (claims 1, 7, 21, 30 and 33) are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
3. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

**SECTION VIII:**

1. Although claims 1, 7, 21, 30 and 33 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/CA99/00490

from each other only with regard to the definition of the subject-matter for which protection is sought or in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness. Moreover, lack of clarity of the claims as a whole arises, since the plurality of independent claims makes it difficult, if not impossible, to determine the matter for which protection is sought, and places an undue burden on others seeking to establish the extent of the protection.

Hence, **claims 1, 7, 21, 30 and 33** do not meet the requirements of Article 6 PCT.

2. Various features, which were only included in the description but not in the claims as originally filed, have been included in the amended independent claims as filed with the letter of Dec. 22, 1999. The newly introduced features also result in a new inventive concept of the independent claims. These independent claims are therefore directed to subject-matter which has not been searched.